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EAST TIMOR

Working paper prepared by the Secretariat

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EAST TIMOR

I. GENERAL

1. The Territory of East Timor comprises the eastern part of the island of Timor, which is located at the tip of the chain of islands forming the Republic of Indonesia; the enclave of Oecusse Ambeno; the island of Atauro, off the northern coast of Timor; and the island of Jaco, off its extreme eastern tip. It lies between latitudes 8'17'S and 10'22'S and longitudes 123'25'E and 127'19'E.

2. According to the 1980 census, the total population of the Territory was 555,350; in 1991, it was estimated at 752,000. 1/

II. CONSIDERATION BY THE UNITED NATIONS 2/

A. The General Assembly and other United Nations bodies

3. Between 1961 and 1982, the General Assembly annually reviewed the question of East Timor and adopted resolutions on the basis of the reports submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. 3/

4. Since April 1977, the Government of Portugal, in its capacity as administering Power of East Timor, has annually informed the Secretary-General that owing to conditions prevailing in the Territory, namely the presence of armed forces of the Republic of Indonesia, it has been de facto prevented from transmitting any information concerning East Timor under Article 73 e of the Charter of the United Nations. 4/

5. At its thirty-seventh session, by its resolution 37/30 of 23 November 1982, the General Assembly requested the Secretary-General to initiate consultations with all parties directly concerned, with a view to exploring avenues for achieving a comprehensive settlement of the problem, and to report to the Assembly at its thirty-eighth session. The Assembly requested the Special Committee to keep the situation in the Territory under active consideration and to render all assistance to the Secretary-General to facilitate implementation of the resolution.

6. Since 1983, the Secretary-General has kept the General Assembly apprised of developments related to the exercise of his good offices. 5/ In his latest progress report, submitted to the General Assembly at its forty-sixth session (A/46/456), the Secretary-General stated that he had continued consultations with the Governments of Indonesia and Portugal, in the course of which both sides had reiterated their determination to seek a comprehensive and internationally acceptable solution to the question of East Timor through continuing dialogue and negotiation.

7. At each session since the thirty-eighth, the General Assembly has deferred consideration of the question. 6/

8. During the general debate at the forty-sixth session, the representatives of Angola, Cape Verde, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe and Vanuatu referred to the question of East Timor in their statements (A/46/PV.5, 7, 14, 21, 23, 24). The representative of the Netherlands, on behalf of the 12 members of the European Community, also referred to East Timor in a memorandum which was circulated as an integral part of his speech (A/46/PV.6). In response to the statement made by Portugal, Indonesia made a statement in exercise of the right of reply (A/46/PV.7). In the general debate in the Fourth Committee, the representative of the Netherlands, on behalf of the 12 members of the European Community, also referred to East Timor (A/C.4/46/SR.8); and the representatives of Cape Verde and Sao Tome and Principe made further references to the Territory (A/C.4/46/SR.11 and 13). Indonesia made a statement in exercise of the right of reply in response to the statement made by the Netherlands (A/C.4/46/SR.9).

9. In the debate in the Third Committee on human rights questions, the representatives of Australia, Austria, Brazil, Canada, Cape Verde, Finland, France, the Holy See, as well as the representative of the Netherlands, on behalf of the 12 States members of the European Community, and the representatives of New Zealand, Portugal and Vanuatu made further references to the Territory (A/C.3/46/SR.44 and 47-53). Representatives of Indonesia, Portugal and Vanuatu made statements in exercise of the right of reply (A/C.3/46/SR.44 and 53).

10. Under the mandate entrusted to it and renewed annually by the General Assembly, the Special Committee has continued to review the question and has heard statements by Member States and petitioners concerning the situation in the Territory. 7/

11. At its 1991 session, the Special Committee considered the question of East Timor at its 1383rd to 1385th meetings, on 7 and 8 August. During those meetings, the Committee heard the representatives of Indonesia (A/AC.109/PV.1383 and 1385), Cape Verde (also on behalf of Angola, Guinea-Bissau, Mozambique and Sao Tome and Principe) and Portugal (A/AC.109/PV.1385); as well as 16 petitioners (A/AC.109/PV.1383, 1384 and 1385).

12. At its 1385th meeting, on 8 August, the Special Committee decided to continue consideration of the item at its 1992 session, subject to any directives that the General Assembly might give at its forty-sixth session (A/AC.109/PV.1385).

13. Since the adoption of its resolution 1983/8 of 16 February 1983 relating to East Timor, 8/ the Commission on Human Rights has not considered the question. At the 41st meeting of the forty-first session, on 5 March 1985, the Chairman announced that the Commission had taken action in private

session, under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970, with regard, inter alia, to East Timor, and that the situation relating thereto was no longer under consideration by the Commission. 9/

14. On 1 September 1988, the Subcommission on Prevention of Discrimination and Protection of Minorities, by 10 votes to 9, with 5 abstentions, decided not to take any action on a draft resolution on East Timor. 10/

15. In both 1989 and 1990, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted by secret ballot resolutions entitled "Situation in East Timor" (1989/7 and 1990/15), whereby it recommended to the Commission on Human Rights that it consider the situation pertaining to human rights and fundamental freedoms in East Timor at its forty-sixth and forty-seventh sessions, respectively. 11/

16. At the 26th meeting of the forty-third session of the Subcommission, on 23 August 1991, the Chairman announced that, as in previous sessions, some experts had taken the initiative of preparing a draft resolution on the subject. Having learned of that initiative, he had requested that certain recent developments in the process of consultations initiated by the Secretary-General be taken into account and had consulted the members concerned in an attempt to find a solution by consensus. The recent developments included an agreement in principle between the parties to send a Portuguese parliamentary mission to visit East Timor (see para. 36 below) and the announcement made by the observer for Indonesia in the Subcommission that the Special Rapporteur on Torture of the Commission on Human Rights would be invited to visit East Timor. To promote the spirit of openness and to facilitate the work of the Special Rapporteur on Torture, it had been agreed not to submit the draft resolution on East Timor. 12/

17. On 8 January 1992, under item 10 (a) of the provisional agenda of its forty-eighth session, the Commission on Human Rights released the report of the Special Rapporteur on Torture, Mr. P. Kooijmans, on his visit to Indonesia and East Timor at the invitation of the Government of Indonesia. 13/ In his report, the Special Rapporteur noted that he had visited the Territory from 11 to 13 November, and thus was present at the time of the shootings in Dili (see sect. V). That incident however, did not fall directly within his mandate. In East Timor, he had held meetings with, among others, the "Governor", the Military Commander, the Attorney, the President of the District Court and Bishop Belo of the Roman Catholic Church and had interviewed several former detainees.

18. The Special Rapporteur said he had been told by the "Governor" that the number of incidents between the local population and the armed forces was decreasing, although sometimes the police intervened with brutality. Of the detainees he had met, some had confirmed that they had been tortured, but others had no complaints of ill-treatment. Military authorities admitted that there had been cases of torture or other serious human rights violation, but they assured him that everything was being done to prevent their recurrence. According to statistical data he had received, some 215 members of the armed

forces had been punished or disciplined for failing to carry out their functions, 115 for criminal acts.

19. At the 54th meeting of the forty-eighth session of the Commission on Human Rights on 4 March 1992, 14/ the Chairman read out a statement, agreed to by consensus, in which the Commission noted with serious concern the human rights situation in East Timor and deeply deplored the violent incident which had occurred in Dili on 12 November 1991 (see sect. V). The Commission, among other things, welcomed the setting up of a national commission of inquiry by the Indonesian Government and the prompt response which its advance report had elicited from the highest authorities. It expressed the hope that further investigation would clarify the discrepancies on the number of people killed and missing. The Commission said that it was encouraged by Indonesia's disciplinary measures and military court proceedings against some members of the armed forces and urged the Government to bring to trial and punish all those found responsible. It called upon Indonesia to ensure that all civilians arrested were treated humanely, that those brought to trial received proper legal representation and fair trial and that those not involved in violent activities were released without delay. The Commission welcomed the appointment of Mr. S. Amos Wako as Personal Envoy of the Secretary-General to obtain clarification of the events and the willingness of the Indonesian authorities to cooperate with him. The Commission encouraged the Secretary-General to continue his good offices for achieving an internationally acceptable settlement of the question. 15/

B. Communications related to the question

20. In letters dated respectively 1 and 6 August 1991 addressed to the Acting Chairman of the Special Committee (A/AC.109/1081 and Add.1), the Permanent Representative of Indonesia reiterated the position of his Government on the question of East Timor and requested that the letters be circulated as documents of the Special Committee.

21. In a letter dated 6 April 1992 to the Secretary-General, the Permanent Representative of Cape Verde transmitted the text of a joint declaration on East Timor issued by the Heads of State of Angola, Guinea-Bissau, Mozambique, Sao Tome and Principe and Cape Verde on the occasion of their Tenth Summit, held in Sao Tome and Principe on 10 March 1992 and requested that the letter and its annex be circulated as an official document of the General Assembly (A/47/151).

22. In a letter dated 21 April 1992 to the Secretary-General, the Permanent Representative of Portugal, in the capacity of President of the European Community, transmitted the text of a statement of the European Community and its member States on East Timor issued on 13 February, and requested that the letter and its annex be circulated as an official document of the General Assembly (A/47/169).

23. In a note verbale dated 20 May 1992 to the Secretariat, the Permanent

Mission of Sao Tome and Principe transmitted the text of a letter from Mr. Kay Rala Xanana Gusmao, member of the National Command of the Maubere Resistance (CNMR) and Commander of the Liberation Armed Forces of East Timor (FALINTIL), and requested that the letter and its annex be circulated as an official document of the General Assembly (A/47/219).

III. POLITICAL DEVELOPMENTS

24. Indonesian Law 7/76 of 17 July 1976 states that East Timor is a province or a "first-level region" of Indonesia. The law provides for the establishment of a "Regional Government" consisting of a "Regional Secretariat" and a "Regional House of Representatives" and for East Timor to be represented in the National House of Representatives and in the People's Consultative Assembly of Indonesia.

25. By its resolution 32/34 of 28 November 1977, the General Assembly rejected Indonesia's claim that East Timor had been integrated into Indonesia, inasmuch as the people of the Territory had not been able to exercise freely their right to self-determination and independence.

26. The most recent general elections to the "Regional House of Representatives" and the National House of Representatives were held on 9 June 1992. According to the Indonesia Times of 15 June 1992, 369,046 voters were registered with the East Timor Elections Committee, and 305,401 of these voted for the Functional Group (GOLKAR), 58,449 for the Indonesian Democratic Party and 5,196 for the United Development Party.

27. The "Governor" of East Timor is Mr. Mario Carrascalão, who is serving a second term which expires in September 1992. According to press reports, 15 candidates are planning to run for election as his successor. 16/ These include Brigadier General Rudolf Samuel Warouw of Indonesia, who was dismissed as military commander of East Timor in December 1991, reportedly because he and his direct superior, as military leaders, were held responsible by President Suharto for the events in Dili on 12 November. The Jakarta Post of 17 March 1992 reported that the Chairman of the Timorese Regional Assembly had charged that the Indonesian Government was attempting to dictate who the next governor should be.

28. Press reports over the past few years have estimated the Indonesian military presence in the Territory to be about 10,000 troops. 17/

29. On 12 June 1992, an article in The Guardian (London) said that after the Dili incident a security crackdown had been imposed and that the military had been granted special powers. The current Indonesian military commander in East Timor, Brigadier General Theo Syfei, was reported as indicating that four of the six battalions, comprising 3,840 men, might be removed by September. According to the report, as the September target date coincides with the retirement of "Governor" Carrascalao, this suggests plans for a "fresh start" in Indonesia's administration of the Territory. However, the report queries

whether prevailing circumstances will actually permit a wide-ranging change, especially as "there is little evidence of success in winning over [illegible] East Timorese". It was reported in the same newspaper on 14 July 1992 that, according to the Indonesian newspaper Kompas, three East Timorese "rebels" had been killed in a clash with Indonesian troops who had stepped up operations in the Territory.

30. In 1990, the Frente Revolucionária de Timor Leste Independente (FRETILIN) maintained that there were 5,000 armed guerrillas. 18/ At the beginning of April 1992, 19/ Indonesian sources reported that according to Brigadier General Syafei there were nine FRETILIN groups with a total of 296 members living in forested areas. Their firepower consisted of about 128 weapons of various kinds, or 2 per cent of their arsenal in 1975/76. General Syafei said that FRETILIN had changed its strategy to focus on political work in urban areas instead of military activities.

31. In 1992, it was reported in the Portuguese press that Mr. Xanana Gusmao, leader of FRETILIN, had told an interviewer that FRETILIN forces had weakened and would accept "without hesitation" the result of a "popular verdict" on the future of East Timor, no matter what the result might be. 20/

32. As previously reported, in 1989 Indonesia and Australia signed a comprehensive agreement for a zone of cooperation for exploration and exploitation of offshore oil resources in the Timor Gap (see A/45/57-S/21022; A/45/60-S/21028; A/46/93-S/22249; A/46/97-S/22285).

33. On 22 February 1991, the Government of Portugal filed in the Registry of the International Court of Justice an application instituting proceedings against Australia in a dispute concerning "certain activities with respect to East Timor". 21/

34. By an Order of 3 May 1991 (I.C.J. Reports 1991, p. 9), the President of the International Court of Justice, after a meeting with the Agents of the two Parties at which agreement on time-limits was reached, fixed 18 November 1991 as the time-limit for the filing of the Portuguese Memorial and 1 June 1992 as the time-limit for the Australian Counter-Memorial. 22/

35. On 16 December 1991, the Portuguese Ambassador to Australia handed a note verbale to the Ministry of Foreign Affairs for Australia strongly protesting against 11 production-sharing contracts which had been approved for petroleum exploration in "Area A" defined by the "Timor-Gap Cooperation Treaty" (A/47/65-S/23339, annex).

36. In mid-1991, Portugal and Indonesia reached agreement regarding the visit of a Portuguese parliamentary delegation to East Timor. The visit was formally approved by President Suharto of Indonesia on 25 August 1991. 23/ Informed that Indonesia opposed the inclusion of Ms. Jill Jolliffe in the list of international journalists to accompany the delegation, Portugal announced on 26 October that it was suspending the visit. A press release issued by the Permanent Mission of Portugal on 31 October 1991 said that Indonesia's

opposition was not in conformity with what had been agreed upon by the parties and that it culminated a series of actions incompatible with the terms of reference already approved for the visit. Indonesia contended that its opposition was based on the fact that Ms. Jolliffe had established herself as an anti-Indonesia crusader and that her ability to be an independent and objective reporter was therefore compromised. 24/

37. In February 1992, a group of about 150 people, including peace activists, students and journalists from 10 countries, set sail from Darwin, Australia, to East Timor aboard a chartered ferryboat, the Lusitânia Expresso, on what they described as a peace voyage. Indonesia said it had not received any request from either the operator of the vessel or its passengers for authorization to sail into Indonesian waters and would enforce applicable national and international laws if the group persisted in its voyage. 25/ On 10 March, the spokesman of the Secretary-General said that the Secretary-General had been informed of the mission by its organizers and had expressed the hope that no violent incident would occur and that good judgement and maximum restraint would be displayed by all concerned. According to a report in the Far Eastern Economic Review of 26 March 1992, the ship was "repelled by navy frigates at the edge of the Indonesian waters early on the morning of 11 March. The Indonesian navy had said it was prepared to use force ... but, in the event, a verbal warning proved a sufficient deterrent". Indonesia has stated that the Lusitânia Expresso entered its territorial sea at 0555 ICT on 11 March and continued its voyage after being ordered to leave. After repeated warnings, at 0607 ICT, the Lusitânia Expresso turned around and proceeded to leave (A/47/152, annex). In a statement issued on 24 March, Portugal said that whilst the ship was three miles outside the territorial waters of East Timor, Indonesian vessels ordered the Lusitânia Expresso not to enter, stop or anchor within its territorial waters. The Portuguese statement also said: "Moreover, these actions prevented the Lusitânia Expresso from entering the territorial waters of East Timor, a Non-Self-Governing Territory under Portuguese administration, in accordance with the relevant United Nations resolutions, and over which the Republic of Indonesia exercises no legitimate jurisdiction whatsoever" (A/47/134-S/23757, annex).

38. In a letter dated 24 March 1992 to the Secretary-General, the Permanent Representative of Portugal transmitted the text of a statement of his Government on the incident and requested that the letter and its annex be circulated as an official document of the General Assembly and of the Security Council (A/47/134-S/23757).

39. In a letter dated 8 April 1992 to the Secretary-General, the Permanent Representative of Indonesia transmitted the text of a statement issued by the Government of Indonesia the same day in response to the letter from Portugal and requested that the letter and its annex be circulated as an official document of the General Assembly (A/47/152).

40. On 23 April 1992, it was reported that Indonesia had rejected requests by United States Senators David Boren and Claiborne Pell to visit East Timor. 26/

IV HUMAN RIGHTS SITUATION

41. Regarding the comprehensive settlement of the question of East Timor, on which the Secretary-General reports annually to the General Assembly, the Secretary-General has been in contact with the parties concerned with a view to reactivating a dialogue that could lead to such a settlement. In this regard, the Governments of Indonesia and Portugal have presented their proposals and views on a dialogue to the Secretary-General, who continues his efforts to obtain an agreement on the modalities and format of such talks.

42. Below is a summary of observations relating to the human rights situation in East Timor contained in Country Reports on Human Rights Practices for 1991, Indonesia, published in February 1992 by the United States Department of State: 27/

> "In East Timor, where a shift from security operations to civic action projects by the armed forces had brought a gradual reduction in human rights abuses, the situation deteriorated sharply beginning in October.
>
> "During the period under review, people were detained for days or weeks and subsequently released without charges.
>
> "Although the Indonesian Government does not provide data on the number of persons serving subversion sentences, informed estimates suggest a total of more than 500 including those convicted of subversion in connection with separatist activities in East Timor.
>
> "The Government occasionally censors publications and continues the practices of telephoning editors to suppress stories and of censoring foreign periodicals. An article about East Timorese workers in Java that was to appear in the prominent news weekly Tempo, for example, was censored in early September 1991 at the insistence of military officers who came to the magazine's offices.
>
> "The Catholic Church operates widely in East Timor, but the activities of some of its clergy are carefully monitored by security forces concerned with their political sympathies.
>
> "Curfews were sometimes in force in connection with military operations in parts of East Timor.
>
> "Under a 1985 agreement, the International Committee of the Red Cross (ICRC) is authorized by the Government to visit persons held for security reasons in East Timor. None the less, ICRC experienced significant delays in gaining access to those wounded or imprisoned in the 12 November incident.
>
> "Family visits back to East Timor by East Timorese now living in Australia continued."

43. Amnesty International reported that at least 30 people had been killed in East Timor by Indonesian security forces in 1990 and early 1991 in apparent extrajudicial executions. A pattern of short-term detention, ill-treatment and torture of political detainees also appeared to have worsened. More than 400 people had been detained in East Timor since late 1988 for alleged involvement in pro-independence political activities, at least 200 of them since early 1990. Many might have been prisoners of conscience and many had reportedly been ill-treated or tortured in custody. 28/

44. Amnesty International noted that there remained serious limitations on the reporting of human rights violations in East Timor despite the "opening" of the Territory to tourism and commerce in January 1989. Persons suspected of disseminating human rights information in East Timor and Indonesia were closely watched and had a well-founded fear that they might themselves become victims. Telephone and postal communications were monitored and contacts with foreign journalists and tourists or with international organizations like ICRC were sometimes the subject of investigation. While some foreign visitors had been able to travel with apparent freedom in certain parts of the Territory, most continued to be subjected to close surveillance by military and police intelligence. Finally, notwithstanding government assurances that access to the Territory was unrestricted, and in spite of repeated requests, Amnesty International had not yet been permitted to visit East Timor or Indonesia. 28/

V. OTHER DEVELOPMENTS

A. The Dili incident of 12 November 1991

45. On 28 October 1991, shortly after Portugal's suspension of the proposed visit by a parliamentary delegation, two Timorese youths were killed in an altercation between anti- and pro-Indonesian factions in Dili.

46. On 12 November, after a memorial service in a local church for one of the deceased, a procession of some 2,000 people went to Santa Cruz cemetery, where the man had been buried two weeks before. Some demonstrators were carrying FRETILIN flags and were chanting anti-Indonesian slogans. According to numerous press reports, as the peaceful procession marched to the cemetery, an Indonesian army major and a soldier were stabbed, although not fatally wounded. After demonstrators had reached the cemetery, security forces opened fire at the crowd, killing and wounding an undetermined number of people. According to Country Reports on Human Rights Practices for 1991, 19 victims were buried in unmarked graves and for two days after the incident the army denied ICRC access to the military hospital to which the dead and wounded had been taken. 29/

47. According to press reports (The Guardian (London), 7 January 1992, The Observer (London), 17 November 1991, The New Yorker, 9 December 1991, The Times (London), 14 November 1991), the incident was witnessed by five foreign visitors, including two United States journalists representing The New Yorker magazine, a United Kingdom cameraman who filmed the events at the cemetery,

and an Italian missionary. These eyewitnesses in their accounts sustained that the shooting had started without any warning from the military or provocation by the demonstrators.

48. Amnesty International reported that it had received unconfirmed reports that between 60 and 80 additional people were extrajudicially executed on 15 November and their bodies also buried in unmarked graves outside Dili. Those killed were said to have included witnesses to the 12 November incident as well as suspected or known political activists arrested at the time of the incident and in house-to-house searches over the following days. The organization also reported that dozens of East Timorese demonstrating peacefully in Jakarta on 19 November had been detained by security forces. Unofficial sources to which representatives of Amnesty International spoke said that at least 35 people had been held at the Jakarta Central Police Station. 30/

49. On 18 November, the Government of Indonesia appointed a seven-member National Commission of Inquiry headed by a Supreme Court justice to conduct an on-site inquiry into the incident. The Commission met with the "Governor" of East Timor and other government and religious officials, as well as with members of the military and police. It held interviews with 132 eyewitnesses, visited hospitals and conducted several on-site reconstructions of events. 31/

50. In its preliminary report, released 26 December 1991, 27/ the Commission noted that eyewitnesses had provided differing accounts of aspects of the incident, especially disagreeing as to whether warning shots had been fired and whether there had been fighting before shots were fired.

51. The Commission said that, according to the military command (KOLACOPS), the death-toll had reached 19, but that according to other eyewitnesses the death-toll varied from 50 to over 100.

52. The Commission said that a total of 91 persons were reported to have been treated for wounds but that the actual number of wounded might well have been higher than officially reported. The Commission reported that approximately 90 persons were missing. 31/

53. The Commission concluded that the shootings were "not an act ordered by or reflecting the policy of the Government or the Armed Forces". It stated that the incident was "essentially a tragedy which should be deeply regretted" and that the actions of a number of security personnel "exceeded acceptable norms and led to the casualties". It was recommended that action be taken against all involved in the incident and that they be brought to trial in accordance with the rule of law.

54. Asia Watch, in a report issued on 3 January 1992, noted that after studying the preliminary report of the National Commission of Inquiry, reviewing Indonesian press coverage and interviewing people in Dili, it had concluded that the report was flawed by the Commission's ties to the Indonesian Government and the lack of experience of its members in conducting

such investigations. It said that, given the way the investigation was conducted, the Commission's findings, which upheld the army's position that security forces had fired on the demonstrators in self-defence, could not be accepted. Asia Watch acknowledged that it was the first time the Indonesian Government had ever recognized the need to respond so publicly to international criticism, that the head of the Commission appeared to take his assignment seriously, that the preliminary report was critical of security forces and that it acknowledged that the official death-toll of 19 was far too low. 32/

55. Asia Watch also reported that as of mid-December 1991 the situation in East Timor remained tense with hundreds of people still not knowing whether their missing relatives were detained, in hiding or dead. It said that one local source had reported that the atmosphere of fear and terror was worse than at any time since 1975. It noted also that there were reports of ongoing arrests and killings. 33/

56. In a statement issued on 13 February 1992, the European Community said it was encouraged by the prompt response which the Commission's report had elicited from the highest Indonesian authorities and welcomed the condolences expressed by the President of Indonesia to the people of East Timor and his commitment that such an incident must not happen again. However, the Community and its member States remained concerned about other aspects of the question: they hoped that further investigations would result in all those responsible being identified and, where appropriate, disciplined or brought to trial, and that those investigations would also produce clear information about the number killed and the fate of those still missing. The Community welcomed the involvement of the United Nations in the process and the appointment of Mr. S. Amos Wako as the personal representative of the Secretary-General to obtain clarification of the events (see para. 57). They supported the endeavours by the Secretary-General to achieve a just, comprehensive and internationally acceptable settlement of the question of East Timor, with full respect for the legitimate interests and aspirations of the East Timorese. They supported the start of a dialogue without preconditions between Portugal and Indonesia under the auspices of the Secretary-General, as contained in the constructive Portuguese proposal.

57. The Special Rapporteur on Torture, Mr. Kooijmans (see paras. 17 and 18), said that while the events did not fall directly within his mandate, as a representative of the United Nations Commission on Human Rights he felt constrained to describe and evaluate what he saw and heard during and after the events. The Special Rapporteur noted, inter alia, that information about what had sparked off the shooting differed widely. According to the authorities, the crowd was disorderly, demolishing shops and houses and using weapons, including a hand-grenade, against members of the security forces. Others claimed there was no provocation from the crowd. The Special Rapporteur noted that as he was about to leave East Timor on 13 November, he requested, in order to express sympathy, to be taken to the hospital where dozens of wounded were being treated. His request was refused, with the explanation that a visit by the Special Rapporteur to the wounded would be

interpreted as a "United Nations endorsement of anti-government" forces and could lead to further rioting. The Special Rapporteur said that he regretted being obliged to put on record his feelings of astonishment and disappointment at not having been informed promptly by the military authorities about the incidents of 12 November. 34/

58. On 8 February 1992, Mr. S. Amos Wako, Attorney General of Kenya and an international authority on human rights, arrived in Indonesia as the personal envoy of the Secretary-General to obtain clarification of the events. Mr. Wako held a succession of meetings with government officials, members of the Indonesian National Commission of Inquiry, the "Governor of East Timor" and others in Jakarta and Dili. Upon the completion of his mission, Mr. Wako reported privately to the Secretary-General. The Secretary-General informed the parties concerned about the conclusions and recommendations of Mr. Wako.

59. On 27 February 1992, the Military Honour Council, established by the Army Chief of Staff upon instruction of President Suharto to evaluate the conduct of and action taken by local security officers and the Army's Command structures in the Dili incident, announced its decision to punish six senior military officers (three, including two generals, were dismissed, two others were taken off active duty and one suspended). It also would examine actions by other "personnel who committed errors and infringements of military ethics and discipline or behaviour beyond appropriate limits"; court martial four officers, including three senior non-commissioned officers and one junior non-commissioned officer; and interrogate five other officers "in order to establish whether or not they actually failed to act when they should have". 35/

60. According to a report by Asia Watch of 26 June 1992, between 29 May and 6 June nine soldiers and one policeman had been tried by military or police courts in Bali for their role in the massacre. The report further noted that the trials were open to diplomatic observers and the press; the sentences ranged from 8 to 18 months; and as far as the Indonesian Government was concerned, the case against the military was now closed. Asia Watch contrasted the Government's failure to move forward with prosecutions of other soldiers with the continued imprisonment of dozens of East Timorese independence supporters in Dili and Jakarta, some of whom were facing subversion charges for participating in non-violent demonstrations.

61. According to reports in the Far Eastern Economic Review, Indonesia has also begun prosecution of civilians suspected in connection with the incident on charges ranging from subversion to sowing hatred of the Indonesian Government. 36/ Authorities had originally arrested 308 people in Dili, but later released 276. The articles said that eight persons had been charged in Dili and five others in Jakarta for organizing a 19 November march in Jakarta to protest the killings. Four of the accused have been charged with subversion, which carries a maximum penalty of death. Another source reported that, according to the Australian Council for Overseas Aid, Indonesian authorities had interviewed many survivors of the incident in a "political rehabilitation centre" on Vicqueque. 37/

62. In letters dated 26 May and 10 July 1992, Portugal informed the Secretary-General that two Timorese charged with "subversion" in Dili for organizing the demonstration at the cemetery had been given a life sentence and a 15-year prison term respectively; that two more Timorese living in Indonesia, accused of having organized a demonstration in Jakarta on 18 November 1991 protesting the massacre, and of being members of a student organization, had been sentenced to 10 and 8 years respectively; and that two others had been sentenced to two and a half years and six months in prison respectively for helping to organize anti-Indonesian demonstrations and for publicly expressing hostility towards the Government of Indonesia. None of the convicted Timorese had been indicted for violent activities (A/47/331 and A/47/332).

B. Communications and reports related to the incident

63. In a letter dated 12 November 1991 to the Secretary-General, the Permanent Representative of Portugal conveyed the text of a communiqué of his Government on the human rights situation in East Timor and requested that the letter and its annex be circulated as an official document of the General Assembly and of the Security Council (A/46/716-S/23258).

64. In a letter dated 15 November 1991 to the Secretary-General, the Permanent Representative of the Netherlands transmitted the text of a declaration of the European Community and its member States on East Timor, issued on 13 November 1991, and requested that the letter and its annex be circulated as a document of the General Assembly (A/46/683).

65. In a letter dated 20 November 1991 to the Secretary-General, the Permanent Representative of Cape Verde, also on behalf of Angola, Guinea-Bissau, Mozambique and Sao Tome and Principe, drew attention to the joint statement annexed thereto on the prevailing situation in East Timor, and requested that the letter and the joint statement be circulated as an official document of the General Assembly and of the Security Council (A/46/694-S/23235).

66. In a letter dated 22 November 1991 to the Secretary-General, the Permanent Representative of Portugal conveyed the text of a statement of his Government on Indonesia's appointment of a Commission of Inquiry into the Dili "massacre" and requested that the letter and its annex be circulated as an official document of the General Assembly and of the Security Council (A/46/699-S/23242).

67. In a letter dated 26 November 1991 to the Secretary-General, the Permanent Representatives of Angola, Cape Verde, Guinea-Bissau, Mozambique, Portugal and Vanuatu brought to his attention two reports by Amnesty International entitled "East Timor - The Santa Cruz Massacre" and "East Timor - After the Massacre", dated 14 and 21 November 1991 respectively, and requested that the letter and its annexes be published as an official document of the General Assembly (A/46/714).

68. In a letter dated 3 December 1991 to the Secretary-General, the Permanent Representative of the Netherlands transmitted the text of a declaration of the European Community and its member States on the situation in East Timor, issued on the same day, and requested that the letter and its annex be circulated as a document of the General Assembly (A/46/747).

69. In a note verbale dated 29 May 1992 to the Secretary-General, the Permanent Representative of Indonesia, with reference to the note verbale from Portugal of 1 May 1992 concerning the transmission of information on East Timor under Article 73 e of the Charter (A/47/189), reiterated the position of his Government concerning the Dili incident and annexed press releases on the question issued by the Permanent Mission of Indonesia (A/47/240).

70. In a letter dated 5 June 1992 to the Secretary-General, the Permanent Representative of Portugal transmitted the text of a statement of his Government on the trial and sentencing of East Timorese in Jakarta and Dili in connection with the event of November 1991 (A/47/259).

71. In a letter dated 26 June 1992 to the Secretary-General, the Permanent Representative of Portugal transmitted the text of a statement of his Government on East Timor, issued on 23 June 1992, and requested that the letter and its annex be circulated as a document of the General Assembly (A/47/299).

72. In a letter dated 10 July 1992 to the Secretary-General, the Permanent Representative of Portugal transmitted the text of a statement of his Government, issued on 26 May 1992, concerning the trials and sentencing of East Timorese in Jakarta and Dili (A/47/331).

73. In a letter dated 10 July 1992 to the Secretary-General, the Permanent Representative of Portugal transmitted the text of a statement of his Government, issued on 2 July 1992, on the sentencing to life imprisonment of a Timorese in Dili (A/47/332).

V. ECONOMIC AND SOCIAL CONDITIONS 38/

74. In the absence of information submitted by the administering Power under Article 73 e of the Charter, for the reasons explained in paragraph 4, the material in this section has been derived from other sources.

75. According to Indonesian publications, the prevailing economic and social conditions in East Timor can be described as follows:

General

Economic growth in 1991 was estimated at over 11 per cent. Of the total output, an estimated 49.68 per cent was contributed by agriculture; 21.1 per cent by services; 12.9 per cent by construction; 9.5 per cent by trade; and 6.8 per cent by other sectors.

Indonesian budgetary allocations for development in East Timor for 1992/93 increased by 35.8 per cent as compared to the previous year. The "East Timor provincial administration" was allocated Rp 71.1 billion 39/ for the implementation of 126 agricultural and industrial projects. In addition, the Government allocated Rp 67.2 billion for the construction of elementary schools, procurement of drinking water, road improvement and reforestation projects.

Natural resources

According to a survey conducted in 1989 by the Indonesian National Investment Coordinating Board and the Agency for the Assessment and Application of Technology, East Timor has significant mineral deposits: 3 million cubic metres of marble, 115.57 million cubic metres of bentonite, as well as phosphate, manganese, gold, copper, chromium, dolomite, wollastonite and clay.

Agriculture

In 1990, food production was as follows: rice, 50,172 tons; corn, 73,635 tons; green beans, 1,016 tons; soya beans, 69 tons; peanuts, 1,375 tons; cassava, 10,567 tons; sweet potatoes, 35,179 tons; and vegetables, 10,924 tons.

In 1991, cornfields covered an area of 23,000 hectares and rice paddy fields, 61,000 hectares. East Timor was close to achieving self-sufficiency in rice, with only 8,000 tons of rice imported from other regions, as compared to 24,000 tons in 1990.

The Territorial Government set a target of developing 400 hectares of new rice paddies in 1992/93 to achieve self-sufficiency in rice production.

In 1989, there were more than 136 kilometres of irrigation canals in East Timor, capable of supplying water for 6,000 hectares of paddy fields.

In 1989, animal husbandry indicators were as follows: cows, 63,612; horses, 24,993; goats, 91,214; buffalo, 43,554; sheep, 31,099; pigs, 256,031; chickens, 494,767; broilers, 144,614; and ducks, 31,750.

In 1989, 680 tons of ocean fish and 48 tons of freshwater fish were landed.

According to an Indonesian publication, three foreign companies had expressed interest in investing in businesses in Lautem regency, 255 kilometres east of Dili. A Japanese and a South Korean company were considering establishing joint ventures with Indonesian counterparts to process canned fish products, while an Australian firm was considering development of a cattle-raising project in cooperation with "domestic" firms.

Forest

Forested areas in East Timor consist of 25,165 hectares of nature reserve, 13,687 hectares of forest for recreational purposes, 432,277 hectares of protected forest, 170,484 hectares of limited forest, 45 hectares of productive forest and 10,000 hectares of convertible forest.

Communications

In 1989, the road network of East Timor consisted of 650 kilometres of "national roads" (49 per cent asphalt and 51 per cent gravelled) and 989 kilometres of "provincial roads" (22 per cent asphalt and 78 per cent gravelled).

From 1976 to 1989, 20 bridges were constructed, with a total length of 959 metres. In 1988/89, Rp 21,800 million was allocated to road network construction. In 1989, 330 traffic signs were installed in Dili and other areas.

In 1989, there were 187 buses, 1,964 passenger cars, 1,567 trucks and 5,476 motorcycles. The Comoro airport was being improved.

Dili seaport, with a 180-metre quay 9 metres deep, can accommodate 5,000 d.w.t. vessels. Three to five vessels call at the port weekly. Other local seaports are under construction at Pante Makasar (Ambeno), Laga (Baucau), Con (Lautem), Beasu (Viqueque) and Betano (Manufahi).

Industries

For 1990/91, Rp 1.5 billion was allocated for executing integrated development projects in Nitibe (Ambeno), Ossu (Viqueque), Alos (Manufahi), Manatuto and Maro (Lautem), Maubara (Liquisa) and Dili.

As of the end of 1988, there were 1,032 units of industrial enterprises, comprising seven multifaceted industries and 1,025 small-scale and handicraft industries. Multifaceted industries employed 830 persons and produced goods valued at Rp 1,380 million. Small-scale establishments and businesses employed 3,949 persons and produced goods worth Rp 1,330 million. It was estimated that 90.4 per cent of those enterprises were privately owned.

Education and social services

In 1988/89, there were 26 kindergartens with 1,713 pupils and 73 teachers; 565 primary schools with 128,566 students and 4,357 teachers; 90 junior high schools with 33,314 students and 1,179 teachers; and 33 upper secondary schools with 11,818 students and 675 teachers.

In 1989, there were two universities, Timor Timur University and Open University, and one academy, the Kataketik Academy. The Open University was attended by 701 students, and Kataketik Academy by 48 students.

In March 1992, it was reported that the only school in the Territory which gave instruction in Portuguese and taught Indonesian as a second language would be shut down with the agreement of Roman Catholic Church authorities. The Indonesian newspaper said that the school had become notorious following reports that many of its students had been involved in the demonstration that had led to the 12 November incident. The school is located near the Santa Cruz cemetery. 40/

Health

There were eight State-run general hospitals and a number of public health centres. The medical personnel included 6 specialists, 149 physicians, 75 midwives and 452 nurses. The ratio of physicians to the population was 1:7,000. In 1989/90, over Rp 3 billion was allocated to public health programmes.

Tourism

The Government of Indonesia allocated Rp 100 million for tourism development in East Timor in 1991/92. The funds were to be used for the development of coastal resorts, parks and other facilities. The Indonesian Directorate General of Tourism had assigned a team to survey areas in East Timor which might be developed into tourist resorts.

Notes

1/ World Population Prospects, 1990 (United Nations publication (ST/ESA/SER.A/120), Sales No. E.91.XIII.4), p. 140.

2/ For details, see corresponding sections of the previous working papers contained in documents A/AC.109/L.1328, A/AC.109/623, 663, 715, 747, 783, 836, 871, 919, 961 and 1001.

3/ See General Assembly resolutions 1699 (XVI), 1807 (XVII), 1913 (XVIII), 2107 (XX), 2184 (XXI), 2395 (XXIII), 2507 (XXIV), 2707 (XXV), 2795 (XXVI), 2918 (XXVII), 3113 (XXVIII), 3294 (XXIX), 3485 (XXX) and 31/53, relating to the question of Territories under Portuguese administration, including East Timor; see also Assembly resolutions 32/34, 33/39, 34/40, 35/27, 36/50 and 37/30 on the question of East Timor.

4/ See A/35/233, A/36/160, A/37/113, A/38/125, A/39/136, A/40/159, A/41/190, A/42/171, A/43/219, A/44/262, A/45/172, A/46/131 and A/47/189. Owing to lack of official information from the administering Power, the information contained in the present paper has been derived from published reports.

5/ A/38/352, A/39/361, A/40/622, A/41/602, A/42/539, A/43/588, A/44/529 and A/45/507.

Notes (continued)

6/ General Assembly decisions 38/402, 39/402, 40/402 and 43/402; see also A/41/PV.3, A/44/PV.3, A/45/PV.3 and A/46/PV.3.

7/ Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 23 (A/38/23); ibid., Thirty-ninth Session, Supplement No. 23 (A/39/23); ibid., Fortieth Session, Supplement No. 23 (A/40/23); ibid., Forty-first Session, Supplement No. 23 (A/41/23); ibid., Forty-second Session, Supplement No. 23 (A/42/23); ibid., Forty-third Session, Supplement No. 23 (A/43/23); ibid., Forty-fourth Session, Supplement No. 23 (A/44/23); and ibid., Forty-fifth Session, Supplement No. 23 (A/45/23); A/AC.109/PV.1363, 1366, 1367 and 1368.

8/ See Official Records of the Economic and Social Council, 1983, Supplement No. 2 (E/1983/14-E/CN.4/1983/60).

9/ Ibid., 1985, Supplement No. 2 (E/1985/22-E/CN.4/1985/66), paras. 276 and 277.

10/ E/CN.4/Sub.2/1988/L.26 and press release HR/3361.

11/ See E/CN.4/Sub.2/1989/58-E/CN.4/1990/2; E/CN.4/1991/2-E/CN.4/Sub.2/1990/59.

12/ E/CN.4/Sub.2/1991/SR.26.

13/ E/CN.4/1992/17/Add.1, p. 14.

14/ E/CN.4/1992/SR.54/Add.1.

15/ See HR/CN/345.

16/ Indonesian Observer, 9 April 1992.

17/ Far Eastern Economic Review, 26 March 1992.

18/ The New York Times, 21 October 1990.

19/ Indonesian Observer, 8 April 1992.

20/ O Público (Lisbon), 6 March 1992.

21/ Press release No. ICJ/495, 6 March 1991.

22/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 4 (A/46/4), p. 16.

23/ The Australian (Melbourne), 26 August 1991.

Notes (continued)

24/ Permanent Mission of the Republic of Indonesia to the United Nations, press release No. 05/PR/110691.

25/ Press statement of the Indonesian Mission, No. 02/PR/92 of 25 February 1992; The Sunday Age (Australian), 23 March 1992.

26/ The Guardian, 23 April 1992.

27/ United States Department of State, Country Reports on Human Rights Practices for 1991, Indonesia (United States Government Printing Office, Washington, D.C., February 1992), pp. 892-909.

28/ A/46/714, annex I, p. 8

29/ United States Department of State, Country Reports on Human Rights Practices for 1991, Indonesia, p. 861.

30/ A/46/714, annex II, pp. 13-14.

31/ Permanent Mission of the Republic of Indonesia to the United Nations, press release No. 10/PR/123191, 31 December 1991 (A/47/240, annex IV).

32/ Permanent Mission of the Republic of Indonesia to the United Nations, press release No. 03/PR/92, 28 February 1992 (A/47/240, annex VI).

33/ Asia Watch, vol. 4, No. 1, 3 January 1992, p. 1.

34/ Ibid., vol. 3, No. 23, 12 December 1991, para. 1.

35/ E/CN.4/1992/17/Add.1, paras. 48, 53, 64 and 65.

36/ Far Eastern Economic Review, 2 April and 4 June 1992.

37/ O Público (Lisbon), 14-15 April 1992.

38/ The information has been derived from various sources: Antara, 11 January 1992; East Timor Strives for a Better Future, published by the Public Relations Bureau of East Timor, 1990, pp. 34-37; and Facts on East Timor, House of Representatives of the Republic of Indonesia, 1990, pp. 30 and 33.

39/ The currency of the Territory is the Indonesian rupiah. As of 7 July 1992, US$ 1.00 equals Rp 2030.54.

40/ Jakarta Post, 30 March 1992.

UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.109/1116
21 July 1992

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

GIBRALTAR

Working paper prepared by the Secretariat

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GIBRALTAR 1/

I. GENERAL

1. Gibraltar is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the strait to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres, and according to Spain, it is 4.80 square kilometres.

2. In 1990, Gibraltar's civilian population was estimated to be 30,861, comprising 20,531 Gibraltarians, 5,550 other British subjects (including families of British se /icemen stationed in Gibraltar, but excluding servicemen) and 4,780 aliens.

II. ACTION BY THE GENERAL ASSEMBLY

3. On 11 December 1991, the General Assembly adopted without a vote the following decision on the question of Gibraltar (decision 46/420):

> "The General Assembly, recalling its decision 45/407 of 20 November 1990 and recalling at the same time that the statement agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984,* stipulates, inter alia, the following:
>
> > 'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution',
>
> "takes note of the fact that, as part of this process, the Ministers for Foreign Affairs have held annual meetings alternatively in each capital, and urges both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."

"* A/39/732, annex.

III. POLITICAL DEVELOPMENTS

A. General

4. The 1969 Constitution of the Territory remains in effect. 2/ It provides for a single House of Assembly consisting of 15 elected members, together with a Speaker, the Attorney-General and the Financial and Development Secretary as ex officio members. Executive authority is vested in the Governor, who is responsible for defence, external affairs, internal security and all matters that are not expressly defined as domestic matters.

B. General elections

5. General elections for the 15 seats in the House of Assembly were held on 16 January 1992. The Gibraltar Socialist Labour Party (GSLP) received 73.07 per cent of the votes, winning eight seats in the House of Assembly; the Gibraltar Social Democrats (GSD) obtained 20.22 per cent, winning all seven opposition seats; while the Gibraltar National Party (GNP), with 4.66 per cent of the votes, failed to obtain an Assembly seat. 3/ Mr. Joe Bossano, the leader of GSLP, received 9,228 votes and thus was re-elected Chief Minister of Gibraltar. The leader of GSD, Mr. Peter Caruana, who obtained 3,065 votes, became leader of the opposition. 4/

C. Future status

6. In his address to the General Assembly on 7 October 1991 (see A/46/PV.24), His Majesty Don Juan Carlos I, King of Spain, stated:

> "... I cannot refrain from mentioning a colonial problem which has not yet been resolved and which affects the territorial integrity of Spain. Moreover, as Members are aware, it is an issue especially sensitive for all Spaniards. It is the issue of Gibraltar, and today I wish to reiterate my hope that the Hispano-British negotiating process now under way will be effective in achieving a solution in harmony with the times in which we live."

7. Mr. Douglas Hurd, Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, made no reference to Gibraltar in his address to the General Assembly on 25 September 1991 (see A/46/PV.8). However, the administering Power indicated that it remained willing to consider any proposals flexibly and constructively, but would not transfer Gibraltar to Spanish sovereignty if the Gibraltarians did not wish it.

Position of the Government of Gibraltar

8. The Chief Minister of Gibraltar, Mr. Joe Bossano, outlining the position of his Government in the 1992 GSLP manifesto, referred to the question of the external frontiers convention as a major foreign affairs issue facing

Gibraltar in 1992. He stated that he remained as resolved as ever against the Brussels Agreement and the terms of reference that surrounded it, since "it is a process to decolonize Gibraltar in accordance with the United Nations resolutions and the issues of sovereignty will be discussed". He further stated that

> "the GSLP is not afraid to sit around the table with representatives of the Spanish Government to discuss future relations in the light of the dramatic changes taking place in the European Economic Community to which all three of us, Spain, United Kingdom and Gibraltar, belong. This is not what the Brussels process is about and participating in it can only perpetuate something which is out of date and fails to address the real issues of today's world".

Mr. Bossano expressed the conviction that the future for Gibraltar lay in finding a way of living in harmony with its neighbours "on the basis of mutual respect and the application of Community law as the framework for mutual cooperation". The period from 1992 to 1995 is considered crucial by the Chief Minister, who also said that he would immediately submit to the United Kingdom plans to reform the Constitution in order "to ensure that while the United Kingdom continues to be responsible for defence and foreign affairs, the application of European Community law to Gibraltar's domestic affairs is consistent with the right to self-government of the people of Gibraltar". 5/

9. In his statement to the House of Assembly of 9 February 1992, the Chief Minister of Gibraltar said that it was the intention of his Government to change the Territory's Constitution and shed its colonial status. He proposed that in so far as EC had a collective defence and foreign affairs policy, the Community should become involved in these matters on Gibraltar's behalf. However, to the extent that defence and foreign affairs were not coordinated through the Community, the United Kingdom should remain responsible. Mr. Bossano said that Gibraltar was seeking to reform its 1969 Constitution. He told the House of Assembly:

> "The time has come for Gibraltar to be seen as a territory whose people are fully entitled to the right of self-determination. We reject entirely the argument that an eighteenth century treaty can limit or inhibit the right of European people to exercise self-determination when that right is not denied to another single human being."

Mr. Bossano further said the Gibraltar Parliament "should play the historic role of ushering in the end of the colonial era in history". 6/

Anglo-Spanish talks

10. The negotiating process established by the Brussels Joint Communiqué of 27 November 1984 was aimed at overcoming all differences over Gibraltar and at promoting cooperation between the parties concerned, on a mutually beneficial basis. Both parties also agreed, within the framework of the Communiqué, to discuss the issues of sovereignty.

11. At meetings in Luxembourg on 26 June and 1 July 1991, the Interior Ministers of the 12 States members of the European Community came close to agreement on the convention between the States members on the demarcation of the external frontier. 7/ According to the administering Power, 11 EC member States were able to agree on the text of a convention; Spain opposed the text, however, for political reasons, because it included Gibraltar within the Community's external frontier.

12. It will be recalled that the United Kingdom reportedly maintained that since Gibraltar was part of EC under article 227 of the Treaty of Rome, exempting Gibraltar from the convention or making its inclusion subject to a bilateral frontiers agreement would be contrary to Gibraltar's status within EC (see A/AC.109/1074 and Corr.1, para. 15).

13. At its meeting on 2 October 1991, the Foreign Affairs Committee of the Congress of Deputies of Spain adopted a non-legislative proposal submitted by the "Grupo Parlamentario de Izquierda Unida-Iniciativa por Catalunya", as follows:

> "The Congress of Deputies urges the Government not to sign agreements on the external frontiers of the European Community that might imply the perpetuation of its current status or detriment to the position of Spain in the negotiations to bring about the decolonization of Gibraltar and its reincorporation into the territory of Spain."

14. However, Anglo-Spanish talks continued during December 1991 on the external frontiers convention issue, at which both parties maintained their previous positions. 8/ In January 1992, it was announced that the annual round of the Brussels talks scheduled for January would be postponed. In May, both parties agreed to hold talks again in autumn 1992. 9/

Airport agreement

15. According to the administering Power, the United Kingdom and Spain had agreed that, when the British authorities enacted the necessary legislation, the two parties should jointly coordinate expansion of civilian use of the Gibraltar airport. The British Government had made clear at the time that they could not impose it on Gibraltar if the latter did not wish to implement it. On 3 June 1992, however, the Minister of State, Tristan Garel-Jones, speaking in the House of Commons, repeated that the British Government had urged Gibraltar to implement the airport agreement over a number of years and that the British Government believed this to be in the interest of Gibraltar. 10/ (See also A/AC.109/1007, paras. 22 and 23; and A/AC.109/1074 and Corr.1, paras. 17-23.)

16. The Foreign Minister of Spain has reportedly also stated that the airport agreement, as well as the EC civil aviation legislation related thereto, would remain valid without time limitation and would continue to impede the opening of the airport of Gibraltar for European communications. He further expressed his belief that the population of Gibraltar would sooner or later become aware

of the grave consequences of that situation. He also referred to the non-legislative proposal regarding the EC agreement on the external frontiers adopted by the Spanish Congress of Deputies 11/ (see para. 12).

D. Public service

17. The Public Service Commission, consisting of five members, advises the Governor on appointments as well as on the removal and discipline of public officers. Appointments to higher offices are made by the Secretary of State for Foreign and Commonwealth Affairs. The principal executive officers are the Deputy Governor, the Administrative Secretary, the Attorney-General and the Financial and Development Secretary.

IV. ECONOMIC CONDITIONS

A. General

18. Gibraltar has no known natural resources. Industries, trades and services in the Territory are mainly involved in supplying the needs of the civilian community and the garrison. The economy of Gibraltar is largely dependent on tourism and the provision of financial services such as banking, insurance, shipping and portfolio management. The Territory's per capita gross domestic product for 1989/90 was estimated at £6,503 and the per capita gross national product at £6,723, compared with 1988/89 indicators of £5,639 and £5,942 respectively. The inflation rate for 1990 was 7 per cent, compared with 5.1 per cent in 1989. 12/

B. Public finance

19. Revenue for fiscal year 1989/90 totalled £87.7 million. The main sources of revenue were income derived from income tax (£34.6 million) and from indirect taxation (£16.9 million). Income tax is charged on income arising or received in or derived from Gibraltar. Dividends, interest, pensions and emoluments of office accruing in, derived from or received outside Gibraltar by an individual ordinarily resident in Gibraltar are also taxable. Income tax rates applicable to residents range from 20 per cent on the first £1,500 of taxable income to 50 per cent after the first £19,500. Estate duty is levied on a sliding scale ranging from 5 per cent on an estate valued at £20,000 to £40,000 to 25 per cent on estates exceeding £100,000 in value. Estates which are valued under £20,000 are tax-exempt.

20. Recurrent expenditure for fiscal year 1989/90 amounted to £69.6 million. In addition, consolidated fund charges totalled £20.6 million, of which £12.1 million were public debt charges. The main items of expenditure were education and sports (£8.0 million), public works (£7.6 million) and electricity undertaking (£5.0 million). Capital expenditure is financed

through the Improvement and Development Fund. During 1989/90, the Fund received £18.1 million. The main items of expenditure were as follows:

Capital expenditure

(1989/90)

	(Millions of pounds)
Crown lands	8.3
Housing	1.7
Telephone services	1.5
	11.5

21. Actual government expenditure on capital projects for the period 1988 to 1990 was as follows:

	1988/89	1989/90
	(thousands of pounds)	
Housing	1 159	1 469
Education	437	1 109
Amenities and tourism	176	5
Miscellaneous	748	1 240
Additional projects	6 857	11 037
	9 377	14 860

22. At 31 March 1990, the public debt of Gibraltar stood at £37.4 million.

23. The legal tender of the Territory is the pound sterling. Gibraltar Government currency notes of £50, £20, £10, £5 and £1 denominations as well as Gibraltar Government coinage are also legal tender. The notes in circulation on 31 March 1990 stood at £12.01 million.

C. Foreign trade

24. According to the administering Power, the foreign trade indicators for Gibraltar during 1989/90 were as follows:

	Total imports	Total exports
	(millions of pounds)	
1989	200.5	76.1
1990	266.4	101.7
Percentage change	32.9%	33.6%

25. According to the administering Power, approximately 30 per cent of Gibraltar's non-fuel imports originate from the United Kingdom, with Japan and Spain being the Territory's other main suppliers. About 13 per cent of total imports (valued at £27 million in 1990) were foodstuffs. Exports of goods of local origin remained negligible and the Territory continued to depend on the entrepôt trade consisting of re-exports of petroleum and petroleum products supplied to shipping.

26. According to the administering Power, the control of imports continued to be in effect during the period under review. All goods, other than a few items of essential foodstuffs, gold, jewellery, petrol, caravans and endangered species, can be imported under open general licence.

D. Investment, finance and banking

27. As at 31 December 1990, 9,717 companies were registered under the Companies (Taxation and Concession) Ordinance. These business concerns are exempted from the payment of income tax, irrespective of the amount of profits made and whether or not these profits are received in the Territory. The exemption also applies to dividends, interest and directors' fees and annual payments made to non-residents. Shares and debentures held in an exempt company are also not liable to estate duty in the Territory. Unless otherwise authorized, the above concerns may not carry on trade or conduct business in Gibraltar, and no Gibraltarian or resident of the Territory may have any beneficial interest in such a company's shares.

28. Gibraltar's rapid development as an offshore financial centre has led to criticism that it is becoming a haven for tax dodgers and money launderers. In October 1991, Mr. Javier Rodríguez, the Special Prosecutor for the Drug Law Enforcement of Cádiz, Spain, stated that Gibraltar was "a fiscal paradise" where the largest fortunes of doubtful origin were located. 13/ According to press reports, a confidential report prepared by the Spanish Government in 1992 alleged that, on a yearly basis, Gibraltar-based companies were investing approximately 40 billion pesetas of suspicious origin in real estate in Spain. 12/

E. Transportation, communications and utilities

29. According to parliamentary debates, 14/ the Government of the United Kingdom has repeatedly urged the Spanish Government to allow the ferry service between Gibraltar and Algeciras to operate. According to the same source, the British Government, having failed in its attempts to persuade the Spanish Government to do so, has taken the matter up with the European Commission.

30. Spain for its part maintains that the resumption of the ferry service was agreed upon in the Joint Declaration adopted by Spain and the United Kingdom in London on 2 December 1987 and is linked to the implementation of the Agreement of the same date on the joint use of the Gibraltar airport.

31. The total length of roads is 43.06 kilometres, including 12.9 kilometres of roads in the city, 11.26 kilometres in the south district, 9.65 kilometres in North Front and Catalan Bay areas, 2.41 kilometres in the port, 5.63 kilometres on the Upper Rock and 1.21 kilometres of tunnels. There are also 6.84 kilometres of pedestrian way. The motor roads are reported to be in good condition and suitable for vehicular traffic. Six bus routes serviced by 16 buses maintain communication between all parts of the city, and the north and south districts. As at 31 December 1990, a total of 24,913 vehicles were registered in Gibraltar.

32. The data for passenger movements for 1990 are as follows: air arrivals, 132,000; and sea arrivals, 85,000.

33. Airmail is dispatched by direct flight to London and via London to all destinations worldwide six times a week. Surface letter and parcel mail to and from the United Kingdom is received and dispatched via the land frontier five times a week.

34. Since 1980, the local telephone system has been operated by Gibraltar Nynex Communications, Ltd., a joint venture company between the Government of Gibraltar and Nynex International Company of the United States of America. In 1990, a new digital system and exchange became operational, with a capacity of 14,000 lines. The total number of telephone stations at the end of 1990 was 16,759, an increase of 2,932 over 1989. Telecommunication services in the Territory are provided by Gibraltar Telecommunications, Ltd.

35. The Electricity Department of the Government of Gibraltar continued to be responsible for the electricity supply for civilian use. The Ministry of Defence operates a separate electricity supply system for the military requirements and facilities in the Territory. During the period under review, the maximum recorded electricity demand was 19,700 kilowatts and a total of 88,319,547 kilowatt-hours were generated.

36. During the period under review, the following five newspapers were published in Gibraltar: Gibraltar Chronicle (daily) and The Democrat (weekly) in English; as well as Vox (weekly), Panaroma (weekly) and The People (weekly) in English and Spanish.

37. The Gibraltar Broadcasting Corporation (GBC) has been providing radio and television services in the Territory since 1963. GBC Radio (Radio Gibraltar) broadcasts in English and Spanish 24 hours a day. In addition to live and locally recorded programmes, transcriptions and relays by the British Broadcasting Corporation are broadcast as well. GBC Television operates for 5.5 hours daily in English. As at the end of 1990, there were 7,340 licensed television sets in Gibraltar.

F. Tourism

38. The total number of tourist arrivals in 1990 was 4,373,253, compared to 3,984,177 in 1989. During 1990, hotels registered a 5 per cent decrease in occupancy. The full opening of the land border by Spain in February 1985 continues to be the main reason for the increased influx of visitors.

V. SOCIAL CONDITIONS

A. Human rights

39. The Gibraltar Constitution Order, 1969, guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are conferred upon it by the Constitution of Gibraltar, or any other law. The courts of law of the Territory consist of a Court of Appeal, a Supreme Court, the Court of First Instance and the Magistrates' Court.

40. The Substantive Law of the Territory is contained in Orders in Council and enactments of the Parliament of the United Kingdom which apply to Gibraltar, as well as in locally enacted ordinances, subsidiary legislation, the common law and the rules of equity in force in the United Kingdom, so far as they are applicable to the Territory.

B. Labour

41. According to the administering Power, the workforce as at December 1990 totalled 14,452. The distribution of insured persons employed by major industries was as follows: building and construction, 2,562 persons; national defence, 1,616; banking and finances, 862; public administration, 794; wholesale trade, 726 persons. The total number of unemployed at the end of December 1990 stood at 531. Unemployment benefits continued to be paid out of the Social Insurance Fund.

42. Since 1978, public sector wages and salaries have been equated at full parity with those in the United Kingdom. At the end of 1990, basic rates of weekly wages in the public sector were as follows: labourer, £129.42; craftsman's mate, £131.93; craftsman, £155.96-£164.17. Minimum rates of

weekly wages and salaries in the private sector are prescribed by the Conditions of Employment Order as follows: employees under the age of 17, £85.80; employees between 17 and 18 years of age, £93.60; employees between 18 and 19 years of age, £105.50; and employees over 19 years of age, £113.50. According to the administering Power, wages actually being paid generally exceed those figures.

43. Since January 1974, there has been an agreement between the Government of Gibraltar and the United Kingdom on social security arising from the accession by the United Kingdom and Gibraltar to the European Common Market.

44. According to press reports, the British Joint Council for the Welfare of Immigrants, in its publication entitled "Between a Rock and a Hard Place", produced allegations of maltreatment of approximately 3,000 migrant Moroccan workers in Gibraltar. 15/ Following the publication of the above report, a pressure group formed in London announced on 4 February 1992 its intention to file a suit against the United Kingdom at the European Court on Human Rights in Strasbourg and at the European Court of Justice in Luxembourg. 16/

C. Public health

45. The Government's medical and health services consist of hospital services, medical treatment by specialists outside government hospitals where such treatment is beyond the scope of local resources, child welfare and school health services, domiciliary and out-patient treatment of persons coming under the scope of the District Medical Service, the Domiciliary Medical Service, the Ports and Airport Health Service and the Environmental Health Service and Laboratories.

46. The state of health and nutrition is reported to be good and to comply with the standard expected in countries of Western Europe. There have been no outbreaks of epidemic or endemic disease. The principal causes of death are cardiovascular, cerebrovascular, malignant and respiratory (excluding neoplasms) diseases. Immunization for children against diphtheria, tetanus, pertussis, polio, measles and rubella is provided free of charge.

47. According to the administering Power, in 1990 there were 286 government-registered physicians, 125 senior nurses, 107 partially trained nurses, 8 midwives with senior training, 9 environmental health officers, 17 laboratory and X-ray technicians, 11 pharmacists and 76 public health administrative and support staff.

48. St. Bernard Hospital has 192 beds. The hospital provides comprehensive out-patient services and in-patient treatment for acute medical/surgical cases. In addition, it has a maternity section and two wards for elderly patients. Psychiatric treatment is provided by the King George V Psychiatric Unit, which has accommodation for 60 patients. A health centre provides general-practice surgery, as well as child welfare and school medical services. Certain medical specialities, which are not provided by Gibraltar

public health facilities, are covered by a programme of visits by consultants from the United Kingdom.

49. Environmental health work, during 1990, included inspection of dwellings, catering establishments, bakeries, grocery shops, hairdressers' and barber shops, underground water tanks, as well as food inspection, disinfection, mosquito and rodent control, atmospheric pollution and the quality of coastal waters control.

50. Expenditure on public health during the period from 1 April 1989 to 31 March 1990 was £11.7 million.

D. Educational conditions

51. Education is free for all children up to "A" level standard and is compulsory for those between 5 and 15 years of age, although children are allowed to enter school at the age of 4. Students can remain in school after the age of 15 if it is established that they can profit from further education.

52. At the end of 1990, 2,696 pupils were enrolled in the 12 government primary schools, 232 in the one private primary school and 561 in the two services primary schools, making a total of 3,489 students. A further 1,885 pupils were enrolled in two government secondary schools. The language of instruction is English; Spanish is taught as a second language, particularly in the secondary schools. In addition, there were also 13 private and 2 government nursery units, as well as 2 facilities for disabled and retarded children and adults. In 1990, there was a total of 334 teachers for all schools.

53. Technical and vocational training is provided equally to males and females at the two government comprehensive secondary schools, as well as at the Gibraltar College of Further Education. The College, which offers one- and two-year general engineering courses, has since 1985 also offered business/commercial education, technical education and a range of adult education and evening classes, as well as training of apprentices for the Government and the private sector. The Commercial School, which is part of the Girls' Comprehensive School, continues to offer two-year courses for female secondary-school students who then take the Stage I Royal Society of Arts examinations.

54. Expenditure on education for the fiscal year 1989/90 was £7.6 million, which represents 8.5 per cent of the total recurrent expenditure.

E. Housing

55. During 1989 and 1990, an extensive sea reclamation scheme carried out in the harbour waters increased the land area of the Territory by 5 per cent over the previous area of 584 hectares. The reclaimed land has increased the total flat land by 10 per cent.

56. Gibraltar has an average population density of 40.3 persons per hectare, excluding servicemen and their families, visitors and transients. Overcrowding is considered a major social problem in the Territory. Fourteen per cent of the housing stock is considered to be overcrowded. In 1990, there was a total of over 2,000 housing applicants on the waiting list.

57. In 1986, government-rented accommodation stood at 67.8 per cent, privately rented accommodation at 26.3 per cent and owner occupancy at 5.9 per cent. Since the full opening of the land frontier with Spain in February 1985, however, construction of private housing has increased significantly, with 3,500 units expected to be constructed by the private sector over the next 5 to 10 years. The Government has designated land for a further 1,300 units for families on the waiting-list for housing units.

F. Status of women

58. The status of women in Gibraltar, whether married or single, and with or without family responsibilities, is similar to that enjoyed by women in the United Kingdom. Prostitution is illegal in Gibraltar. A maternity grant of up to £36 is payable to qualified women for every child born to them. A widow's allowance is payable for the first 13 weeks of widowhood at a standard rate of £56.70 per week; an additional sum of £6.90 per week is payable for each child up to a maximum of four children. Also, a widowed mother's allowance is payable to a widow left with a dependent child when she finishes drawing her widow's allowance at the standard rate of £47.80 per week with an increase of £6.90 weekly for each dependent child. Upon termination of the above allowances, a widow's pension of £47.80 per week is payable to qualifying women.

59. Protection and care of expectant mothers and of children includes pre- and postnatal care available at clinics operated by the Gibraltar Health Authority. The Department of Labour and Social Security administers two homes for underprivileged children. At the end of 1990, there were 8 boys and 11 girls resident in the homes.

G. Crime and crime prevention

60. According to the administering Power, during 1990, 1,433 minor and 3,393 serious crimes were reported. The reported serious crimes were as follows: violence against indviduals, 641; sexual offences, 19; burglary, 229; robbery, 10; theft, 1,386; criminal damage, 615; dangerous drugs, 407; and other offences, 86.

61. There is one correction institution in Gibraltar. The supervision of the prison is carried out by the Prison Board in accordance with the Prison Ordinance. In 1990, there were 111 convicts in the prison.

62. According to press reports, in 1992 the Governments of Spain and of the United Kingdom agreed to cooperate in the eradication of drug-trafficking and money-laundering activities in Gibraltar. 17/

H. Environment

63. The Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora has been extended to apply to Gibraltar as a dependent Territory for which the United Kingdom, a contracting party to the Convention, has responsibility. The Endangered Species (Imports and Exports) Ordinance of 1976 gave effect in the Territory to the provisions of the Washington Convention. The Animals and Birds Ordinance protects fauna in the Territory, and the Heritage Trust Ordinance provides for the protection of sites of natural beauty and scientific interest.

Notes

1/ The information contained in the present paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 e of the Charter of the United Nations on 7 April 1992 for the year 1990.

2/ For details, see Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 23 (A/7623/Rev.1), vol. III, chap. XI, annex, paras. 7-23.

3/ Gibraltar Chronicle, 17 January 1992; see also Le Monde (Paris), 19-20 January 1992.

4/ Gibraltar Chronicle, 17 January 1992.

5/ Gibraltar Chronicle, 10 January 1992; see also El País (Madrid), 1 February 1992.

6/ Gibraltar Chronicle, 20 February 1992; see also The Times (London), 15 February 1992.

7/ Diário de Noticias (Lisbon), 27 June 1991; see also Financial Times (London), 27 June 1991; The Independent, 27 June 1991; El País (Madrid), 30 June 1991.

8/ Gibraltar Chronicle, 9 January 1992.

9/ The Times (London), 5 May 1992; see also Diario 16 (Madrid), 5 May 1992; El Mundo (Madrid), 5 May 1992; and Cinco Días (Madrid), 5 May 1992.

10/ House of Commons, Parliamentary Debates (Hansard), 3 June 1992.

Notes (continued)

11/ Europa Sur (Spain), 19 April 1992, p. 13.

12/ Tiempo (Spain), 24 February 1992; see also El Siglo (Spain), 21 October 1991.

13/ ABC (Spain), 24 October 1991.

14/ House of Lords, Parliamentary Debates (Hansard), 13 March 1990.

15/ The Guardian (London), 3 February 1992.

16/ Gibraltar Chronicle, 4 February 1992.

17/ Europa Sur (Spain), 20 April 1992.